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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
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CARL J. KUNASEK
CHAIRMAN
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
COMMISSIONER

IN THE MATTER OF THE APPLICATION OF SEDONA VENTURE FOR APPROVAL OF THE SALE OF ASSETS AND/OR FOR TRANSFER OF THE CERTIFICATE OF CONVENIENCE AND NECESSITY TO MHC OPERATING LIMITED PARTNERSHIP DBA SEDONA VENTURE SEWER COMPANY AND SEDONA VENTURE WATER COMPANY.	DOCKET NO. W-02414A-97-0572 DOCKET NO. WS-03449A-97-0572
IN THE MATTER OF THE APPLICATION OF SEDONA VENTURE – WATER AND SEWER DIVISIONS FOR A PERMANENT INCREASE IN ITS RATES.	DOCKET NO. SW-02414A-99-0407 DOCKET NO. W-02414A-99-0407 DECISION NO. 62425 **OPINION AND ORDER**

DATE OF HEARING: November 30, December 1, 16 and 17, 1999

PLACE OF HEARING: Sedona and Phoenix, Arizona

PRESIDING OFFICER: Barbara M. Behun

APPEARANCES: Mr. Jay L. Shapiro, FENNEMORE CRAIG, P.C., on behalf of MHC Operating Limited Partnership, dba Sedona Venture Sewer Company and Sedona Venture Water Company;

Mr. Richard Cire, Intervenor, in propria persona;

Mr. Lynn Hanus, Intervenor, in propria persona;

Mr. James Johnson, Intervenor, in propria persona;

Mr. William Stubblefield; Intervenor, in propria persona;

Mr. R. J. Wenger, Intervenor, in propria persona;

Mr. Richard Sallquist, SALLQUIST & DRUMMOND, P.C., on behalf of Choice Vacation Resorts, Inc. aka Sedona Pines Resort, Intervenor; and

Mr. Robert Metli, Staff Attorney, Legal Division, on behalf of the Utilities Division of the Arizona Corporation Commission.

BY THE COMMISSION:

On October 20, 1997, The Sedona Venture, a California Limited Partnership, and M Operating Limited Partnership, dba Sedona Venture Sewer Company ("SVS") and Sedona Venture Water Company ("SVW") ("MHC", or "Applicant") filed an application for approval of the sale of assets and transfer of the Certificate of Convenience and Necessity ("Certificate") to provide water and sewer service from The Sedona Venture to MHC. On June 18, 1999, MHC submitted to the Arizona Corporation Commission ("Commission") applications for increases in rates and charges for SVS and SVW. On July 19, 1999, the Commission's Utilities Division Staff ("Staff") found the applications sufficient and accepted the filings as Class D utilities pursuant to A.A.C. R14-2-103. By Procedural Order dated August 17, 1999, the matters were consolidated. By Procedural Order dated September 10, 1999, the deadline for consideration of the rate applications was extended thirty days pursuant to A.A.C. R14-2-103.B.11, and the matters were set for hearing on November 30, 1999.

Mr. Richard Cire, Mr. Lynn Hanus, Mr. James Johnson, Mr. William Stubblefield, Mr. R. J. Wenger, and Choice Vacation Resorts, Inc. aka Sedona Pines Resort ("Resort") requested and were granted intervention.

On November 30, 1999, the hearing commenced before a duly authorized Hearing Officer of the Commission in Sedona, Arizona. The hearing reconvened in Sedona on December 1, 1999, and concluded in Phoenix, Arizona on December 16 and 17, 1999. At the beginning of the hearing, public comment was taken. At the conclusion of the hearing, the Presiding Officer allowed those parties not present to submit written closing statements. The Presiding Officer kept the record open for receipt of a late-filed exhibit, response and reply, and suspended the time clock in the interim. Receipt of the final document occurred on January 18, 2000. At that time, the matter was placed under advisement pending submission of a Proposed Opinion and Order to the Commission.

DISCUSSION

I. Introduction

Decision No. 53601 (May 10, 1983) granted The Sedona Venture a Certificate to provide water and sewer service to an "adult" community in an Active Management Area ("AMA") approximately eight miles south of Sedona, Yavapai County, Arizona. The transfer application was filed to legitimize an ownership transfer that occurred on August 29, 1997. Service and permit compliance have improved under the new management.

Current water and sewer rates were approved in Decision No. 59587 (March 26, 1996). MHC provides service to two subdivisions: Sunset Hills Resort ("Sunset Hills"), a permanent, metered trailer home development; and Sedona Shadows Mobile Homes ("Sedona Shadows"), a mobile home park that was metered as a result of Decision No. 59587. There was an average of 233 customers in the combined subdivisions. Service also is provided to a fire station, a commercial area, and a six-inch meter that serves what had been the Sedona RV Resort ("RV Resort").

Decision No. 59587 set a seasonal flat monthly rate for sewer service to the RV Resort. The RV Resort's water service was in effect a flat rate, as its usage did not exceed its monthly-included gallonage. The RV Resort has since been purchased by the Resort, which is converting most of the acreage to a time share resort. The Resort is being built in stages over approximately five years, with a final build-out of 148 units. Twenty time share units, 45 RV slots with water and wastewater service, 45 water-only RV slots, a public laundry and a swimming pool were operational at the time of Staff's inspection on August 18, 1999.

Applicant initially requested a revenue increase for SVS of $111,721, from $137,856 to $249,577, or 81.04 percent and a revenue increase for SVW of $63,233, from $40,046 to $103,279, or 157.90 percent. Staff initially recommended a revenue increase for SVS of $31,464, from $144,158 to $175,622, or 21.83 percent and a revenue increase for SVW of $42,166, from $40,046 to $82,212, or 105.29 percent. Applicant and Staff offered amended schedules and proposed numerous revenue requirements calculations during the proceeding.

At the conclusion of the matter, Applicant proposed a revenue increase for SVS of $80,181, from $145,382 to $225,563, or 55.15 percent, and a revenue increase for SVW of $51,798, from $40,447 to $92,245, or 128.06 percent. Staff concluded with a recommended revenue increase for SVS of $44,719, from $145,382 to $190,101, or 30.76 percent, and a revenue increase for SVW of $49,679, from $40,447 to $90,126, or 122.82 percent. Applicant accepted Staff's adjusted income and expenses, but disputed Staff's recommended rate of return. Mr. Hanus and Mr. Stubblefield

("H&S") disagreed with calculations of rate base and expenses, but did not propose rev requirements. The Resort did not contest rate base and expenses, concentrating on rate design and capacity issues. The Resort requested that revenues be set no higher than Staff's recommended levels.

II. Rate Base

Applicant and Staff proposed various adjustments to Applicant's TY account balances in order to determine the fair value of Applicant's property for ratemaking purposes. In the instant case, Applicant waived determination of the fair value of its property utilizing a reconstruction cost new valuation. Therefore, original cost rate base ("OCRB") and fair value rate base ("FVRB") are the same for purposes of this case. Applicant initially recommended an FVRB for SVS of $458,910, ultimately revised to $456,442 and an FVRB for SVW of $138,059, revised to $139,450. Staff recommended an FVRB for SVS of $454,899, and an FVRB for SVW of $138,514. H&S proposed FVRBs of the cost of the items that MHC can establish that it purchased since taking control of the systems, less items they believe should be considered as contributed by the Resort. Mr. Hai requested that rate bases for SVS and SVW of $63,784 and $21,837, respectively, be adopted.

A. Acquisition Adjustment

H&S contended that MHC paid $10 to acquire SVS and SVW, presenting the deed for purchase of real property, which indicated payment of $10 and other valuable consideration. H&S claimed that the amount of capital invested in facilities is the only tangible measure of investment to be included in rate base. H&S claimed that the facilities were not in compliance with current standards and that their "fair value" should be reduced accordingly.

Applicant disputed the propriety of an acquisition adjustment, arguing that assuming it paid $10 for the systems, "a utility is not entitled to a fair return on its investment; it is entitled to a fair return on the fair value of its properties devoted to the public use..." citing *Arizona Corporation Commission v. Arizona Water Company*, 85 Ariz. 198, 203, 335 P.2d 412 (1959). Applicant indicated that SVS and SVW were purchased as part of a confidential purchase contract includi properties and some other utility companies. Applicant presented evidence that the purchase agreement valued combined assets of SVS and SVW in the range of $575,000-$650,000. Staff agreed with Applicant that an acquisition adjustment would not be appropriate.

We adopt Applicant's position that an acquisition adjustment is not appropriate, and that the acquisition price for SVS and SVW approximates the fair value of the systems.

B. Contributed Plant

H&S sought reconsideration of their position in the last rate case that lot owners contributed to rate base in the sale price of their lots. H&S did not present any new information regarding their claim. The issue was fully and fairly considered in Decision No. 59587, and will not be reconsidered herein, pursuant to A.R.S. § 40-252.

H&S claimed that pursuant to a 1982 Collateral Utility Easement and Land Use Agreement ("Collateral Agreement") between The Sedona Venture and Great Outdoor American Adventure, Inc., ("GOAA") the RV Park owner, the Resort was obligated to pay 94.9 percent of the capital cost of replacement for a lift station that Applicant included in rate base. Mr. Hanus requested that the Resort provide contribution-in-aid-of-construction ("CIAC") of approximately $98,850 for its share of the lift station, and that amount be removed from rate base and depreciation expense. According to Mr. Hanus, the Collateral Agreement, which predates The Sedona Venture's certification, was controlling authority for a determination of payment for capital expenditures. The Collateral Agreement included the lift station as a capital expenditure that mainly benefited the RV Park, and for which the RV Park should mostly pay.

Applicant and Staff asserted that Commission authority superceded the Collateral Agreement. Applicant claimed that the lift station was backbone plant, which should be included in rate base and paid for by all users of the system through rates.

We agree with Applicant and Staff that the Collateral Agreement is not controlling over Commission decisions made in the public interest. That conclusion is supported by the Collateral Agreement, which provides in part:

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> GOAA and Sedona Venture contemplate that eventually the [Commission] will license Sedona Venture as a utility and allow Sedona Venture to charge for such services. Upon Sedona Venture receiving such [Commission] authority, GOAA covenants to and shall pay all such water and sewer charges as are authorized by the PUC for the use of such utility facilities by the RV Park in lieu of the sewer and water charges to GOAA set forth in Paragraphs 8.3 and 9.5 above.

Paragraph 8.3 included the terms regarding payment of the lift station. The lift station is part of the backbone plant, with costs to be recovered through rates.

C. Operation and Maintenance Expenses

One-eighth of operation and maintenance expenses ("O&M") is added to rate base to provide an allowance for working capital. Staff initially proposed $12,717 O&M for SVS and $4,837 O&M for SVW, based upon its recommended expense level. Staff revised its recommended expense level as a result of testimony presented, but did not revise its O&M calculations accordingly. Applicant adopted Staff's recommended expenses, but made the appropriate modification to O&M. Differences in the working capital allowance resulted in Applicant and Staff's proposed rate bases for SVS of $456,442 and $454,899, and for SVW of $139,450 and $138,514, respectively.

Due to revisions to be made to Applicant's expenses, specifically salaries, wages a. corporate allocation, the correct amounts for O&M for SVS and SVW are $14,921 and $3,296. We find that the FVRB for SVS and SVW are $457,102 and $136,972, respectively.

III. Operating Income

A. Operating Revenues

Applicant admitted that it was receiving sewer and water service to maintain vegetation on vacant lots, and attributed to itself $1,224 in revenues for SVS and $401 in revenues for SVW. Applicant and Staff agreed that Applicant's TY revenues for SVS were $144,158 plus $1,224 annualized revenues, for a total of $145,382. Applicant and Staff agreed that Applicant's TY revenues for SVW were $40,046 plus annualized revenues of $401, for a total of $40,447.

It was also discovered that Applicant was receiving utility service for common areas and personnel, for which revenue had not been accounted. Applicant and Staff did not include the additional revenue in TY accounts, but considered it in formulating rate design to achieve t' requested revenue levels by attributing a 1-inch meter to MHC for SVS and SVW. Applican proposed SVS revenues of $223,677 plus annualized revenues of $1,886, for a total of $225,563, compared with Staff's recommended revenues of $188,877 plus annualized revenues of $1,224, or $190,101. Applicant proposed revenues for SVW of $91,336 plus $908 annualized revenues, for a total of $92,245, compared with Staff's recommended revenues of $89,725 plus $401, or $90,126.

B. Operating Expenses

Salaries and Wages

Applicant and Staff initially calculated salaries and wages as a gross amount, half of which was then applied to each division. Salaries and wages included on-site personnel, MHC office assistance, and a corporate allocation that included a percentage of MHC headquarter's personnel, payroll expenses and benefits. For each division, Applicant initially claimed $29,829 in salaries and wages, plus $6,323 adjustments to annualize a new employee's pay and to include housing costs for an employee, for a TY total of $36,152, or 72,304 for both divisions. Staff adjusted each division's salaries and wages ($5,430), to $30,722. Mr. Cire and H&S disagreed with the equal apportionment of salaries and wages to SVS and SVW.

Ms. Wendy Ferguson, the on-site operator, testified that she and her assistant, Mr. Henry MacVittie, spend approximately 85 percent of their time on SVS, and 15 percent on SVW. Ms. Ferguson indicated that Hector Drost, a MHC employee, spent 50 percent of his time in the TY on SVS and SVW, because she and her assistant began employment during the TY, and Mr. Drost handled matters until they came on board. Ms. Ferguson estimated that since she and Mr. MacVittie started at MHC, Mr. Drost averages 10 percent of his time on utility-related issues, mostly on water issues. Mr. Lawrence Viariseo, the on-site manager for Sunset Hills and Sedona Shadows, testified that he and fellow employee Connie Morrison average 20-25 percent of their time on utility-related matters.

Applicant revised its salaries and wages' request, proposing that Ms. Ferguson and Mr. MacVittie's salaries be allocated two-thirds to SVS and one-third to SVW, that Mr. Viariseo and Ms. Morrison be considered to work one-third of their time for the utilities, evenly divided between SVS and SVW, and that Mr. Drost be considered to work 15 percent of his time for the utilities, all to be attributed to SVW. Applicant requested $39,880 for SVS and $35,582 for SVW, for a tota $75,462.[1]

Staff adjusted Applicant's initial wages and salaries for SVS and SVW ($5,430) each, to $30,722, and disallowed any corporate allocation. Staff attributed twenty percent of the time of Mr. Viariseo, Ms. Morrison and Mr. Drost to utility-related matters, divided equally between SVS and SVW. Staff removed the rental allocation for Mr. Drost. Staff later revised its position on corporate allocation, recommending $7,449 for SVS and $2,590 for SVW. Staff did not revise its salaries and wages' adjustment after testimony. Staff's total salaries, wages and corporate allocation for SVS and SVW were $38,171 and $33,312, respectively, for a combined total of $71,483.

Mr. Hanus requested that a total of $46,124 in wages and salaries be charged to SVS and SVW, with $34,000 allocated to SVS and $12,124 allocated to SVW. Mr. Hanus did not include any rental allowance or corporate allocation. Applicant indicated that inclusion of a corporate allocation for payroll costs and benefits would increase Mr. Hanus' recommended total to approximately $60,000.

We will attribute Ms. Ferguson and Mr. MacVittie's salaries 85 percent to SVS, and 15 percent to SVW. We will attribute 20 percent of Mr. Viariseo and Ms. Morrison's salaries to utility-related matters, equally applied to SVS and SVW. We will attribute 10 percent of Mr. Drost's salary to SVW, removing the rental space allowance. Mr. Drost's on-call availability benefits the residential development rather than the utility operation. We adopt Staff's proposed corporate allocation calculation. We adopt salaries, wages and corporate allocation for SVS and SVW, as follows:

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[1] Mr. Viariseo indicated that in the future, residents will be billed separately for rental space and utilities. Mr. Viariseo anticipated that the separate bill will cause the time that he and Ms. Morrison spend on utility-related matters to increase to 40-45 percent. It is difficult to understand how a separate bill for a charge that already is calculated separately wc result in significant additional time for the employees. Applicant may wish to seek Staff's assistance in developing efficient billing system for the utilities. In addition, any such increase in expenses submitted in a rate case should be examined carefully by Staff.

Name	Salary	Percent Utility	Eligible Salary	SVS	SVW
Ferguson	$ 28,288	100	$ 28,288	$ 24,045	$ 4,243
MacVittie	10,400	100	10,400	8,840	1,560
Drost	19,760	10	1,976		1,976
Viariseo	15,600	20	3,120	1,560	1,560
Morrison	15,600	20	3,120	1,560	1,560
	$89,648		46,904	36,005	10,899
Corp. Allocation			10,039	7,449	2,590
Total			$ 56,943	$ 43,454	$ 13,489

Depreciation

Mr. Hanus requested that the Commission order Applicant to set aside funds equal to its depreciation expense in an interest-bearing account for capital replacement. Mr. Hanus contended that otherwise, depreciation is free cash flow to Applicant, and will not be available when needed. Applicant and Staff disagreed with a restrictive use of the depreciation expense. Applicant indicated that historically, cash flow from depreciation was used to maintain operations, not to be set aside in a cash reserve.

We will not require Applicant to set aside its depreciation expense. We will allow MHC to use its best judgment to administer the income it receives through rates, while meeting its obligation to provide safe and reliable service.

Rate Case Expense

Applicant initially proposed rate case expense of $12,792 apportioned equally between SVS and SVW, amortized over four years, for an expense of $1,599 for each division. During the second day of hearing, Applicant submitted evidence of a revised rate case expense of $52,040. Applicant calculated each division's request based upon an estimate of $52,000, increasing its annualized request from $4,901 to $6,500.

Staff had originally adopted Applicant's initial rate case expense. Staff reviewed MHC's adjusted rate case expense, and found it to be reasonable. Staff indicated that Applicant billed fewer hours for completing certain tasks than Staff had taken to perform comparable tasks. Staff's revised schedules included rate case expense adjusted upward by $4,902, to $6,501, for each division.

Mr. Hanus argued that Applicant's rate case expense was unreasonable and based upon unjustified positions in its rate application. Mr. Hanus also claimed that the initial rate case request was incurred by The Sedona Venture, and should be borne by it, not by MHC. Mr. Hanus reque that if the rate case expense is approved, it should be capitalized and amortized over twenty years. Mr. Stubblefield requested that the Commission deny any rate case expense.

A rate case expense of this magnitude is extraordinary for a Class D utility with 235 customers, even when equally apportioned to each division. However, the scope of the issues, number of intervenors, and time involved were also extraordinary. There is nothing in the record to indicate that the rate case expense was not borne by MHC. In addition, MHC did not request additional rate case expense for the third and fourth days of hearing. Based upon Staff's review of Applicant's request, we will allow it as reasonable under the particular circumstances of this matter. We will adopt Applicant's request for an annualized rate case expense of $6,500 each for SVS and SVW.

Miscellaneous Adjustments

Staff adjusted expenses for SVS and SVW in a number of other categories. Applicant accepted the adjustments, and we adopt them and include them in the expense summary listed belo.

SVS Total Operating Expenses Summary:

Applicant Proposed Operating Expenses	$	201,391
Adjustments		
Salaries and Wages	$	(147)
Sludge Removal Expense		(1,274)
Sewage Treatment and Testing		3,117
Repairs and Maintenance		(13,577)
Office Supplies		(2,120)
Rate Case Expense		4,901
Rents		(977)
Transportation Expense		(267)
Health and Life Insurance		(2,813)
Miscellaneous Operating Expenses		(13,221)
Property Taxes		904
Depreciation		(383)
Corporate Allocation		7,449
Total Adjustments		(18,408)
Total Operating Expenses	**$**	**182,983**

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SVW Total Operating Expenses Summary:

Applicant Proposed Operating Expenses	$	88,784
Adjustments		
Salaries and Wages	$	(25,253)
Water Testing		(3,913)
Chemicals		(3,821)
Transportation Expense		267
Office Supplies & Expense		417
Insurance		(2,813)
Rate Case Expense		4,901
Rents		(976)
Depreciation		138
Property Tax		21
Miscellaneous Expense		(1,670)
Corporate Allocation		2,590
Total Adjustments		(30,112)
Total Operating Expenses	**$**	**58,672**

Cost of Capital

Applicant has a capital structure of 100 percent equity. MHC requested a return of 10.50 percent on OCRB for SVS and SVW. Applicant claimed that investors typically would expect a return of approximately twelve percent on an equity investment in the water utility industry, and an average rate of return of 10.96 percent. Applicant did not conduct a cost of capital analysis.

MHC claimed that Staff's recommended rate of return of 2.46 percent for SVS is a confiscation of Applicant's property and Staff's recommended 8.11 percent for SVW is low by any cost of capital or rate of return standard.

Staff stated that for Class D and Class E utilities, such as Applicant, Staff conducts a cash flow analysis. Staff indicated that there are no loans to cover, and that after expenses, there is an appropriate amount of cash flow to the company. Staff asserted that the cash flow methodology created a rate of return that was appropriate under the circumstances.

We will approve the cash flow methodology used by Staff under the particular circumstances of the case. We believe that the return achieved is reasonable after consideration of the lack of debt service, the size of the customer base, the value of the rate base, the approved depreciation, the extra-ordinary rate case expense for a Class D utility, a changing customer base, changing corporate allocations, and the effect on customers of proposed increases. Based upon this methodology, we will establish rates to provide the cash flow recommended by Staff, using the expense level appr herein. As a result of the rate base approved herein, we will adopt rates of return for SVS and SVW of 2.44 and 8.20, respectively.

We find that SVS and SVW should have net operating incomes of $11,176 and $11,229, respectively. As a result, Applicant will need to increase its SVS and SVW operating revenues by $48,777 to $194,159, or 33.55 percent, and $29,454, to $69,901, or 72.82 percent, respectively.

Rate design

Applicant proposed to maintain the same wastewater rate design as presently existing, with the Resort being charged seasonal rates at eighty-five equivalent residential units ("ERU"). Applicant initially proposed a wastewater rate increase for residential customers of $29.20, from $36.00 to $65.20, or 81.11 percent. MHC initially proposed an increase for the Resort of $2,085, from $2,571 to $4,656, or 81.10 percent for September through May, and an increase of $3,672, from $4,528 to $8,200, or 81.10 percent for June through August. At the conclusion of the hearir Applicant proposed SVS rates of $55.46 for residential customers, and rates for the Resort dur September through May of $3,960.75 and rates in June to August of $6,975.61. The revised proposed wastewater rates would be a 54.06 percent increase for all customers.

Staff recommended SVS charge a single rate for the 6-inch meter, eliminating the seasonal rate, to reflect the change in usage from the RV Resort to the Resort. Staff initially recommended a residential rate of $43.00 per month, and a 6-inch meter rate of $4,300 per month, or 100 ERUs. At the conclusion of testimony, Staff recommended a residential rate of $47.50, and a 6-inch meter rate of $4,092 per month, or approximately 86 ERUs.

For water service, Applicant initially proposed a monthly minimum rate increase for residential customers of $17.67, from $5.00 to $22.67, or 353.40 percent. Applicant initially proposed that the 6-inch monthly minimum rate be increased $773.50, from $360.00 to $1,133.50. Applicant proposed to reduce the included gallonage in the 6-inch meter rate from 205,000 to 1,000.

At the conclusion of the hearing, Applicant proposed a monthly minimum water increase $12.35, to $17.35, or 247 percent. Applicant proposed that the 6-inch meter charge be increased

$507.50, to $867.50, or 140.97 percent. Applicant's proposed rates would increase the average 6-inch meter monthly bill from $360 to $1,042.25, or 189.51 percent, and the median monthly bill from $395 to $1,233.90, or 212.38 percent.

Staff claimed that Applicant is facing an emerging cost of service issue, due to the change of use from the RV Park to the Resort. Staff indicated that the TY 6-inch meter water use averaged 110,000 gallons per month, while 6-inch metered water use during May and June 1999 averaged approximately 500,000 gallons per month. Staff expressed concern that increased demand may cause an investment in a new well or a larger pump and additional storage. Staff also asserted that increased usage could cause wastewater problems, as the federal permitted discharge limit is 75,000 gallons per day. Staff stated that 1999 peak wastewater flows reached 55,000 gallons per day.

Staff proposed a residential water monthly minimum of $9.65, with the same tiered rate as the 6-inch meter. According to Staff's proposed rates, the average 5/8-inch monthly bill would increase from $11.82 to 23.15, an increase of 95.85 percent, and the median monthly bill would increase from $9.19 to $18.83, an increase of 104.90 percent.

Staff proposed a reduction for SVW in the 6-inch meter monthly minimum to $500, that no gallonage be included in the monthly minimum, and that the commodity charge be tiered at 10,000 gallons, increasing from $2.30 to $4.00 per 1,000 gallons at that point. Staff's proposed rates would yield an average 6-inch monthly bill of $923.87, an increase of 156.63 percent, and a median monthly bill of $1,403, an increase of 255.19 percent.

The Resort claimed that its increased water usage was related to installation of water landscaping features and construction. According to the Resort, construction should be complete in February 2005, with 120 one-bedroom units and 28 two-bedroom units. The Resort indicated that its current Phase I development has 22 one-bedroom units, 6 two-bedroom units, 45 water and wastewater services and 45 water-only RV slots. The Resort claimed that based upon TY occupancy of forty percent for RV spaces, 80 percent of which were full service, its utility usage was equivalent to 29 RV spaces and 28 time share units, for a total of 57 ERUs, not the 85 ERUs that historically have been assessed.

The Resort took exception to Staff's tiered rate design, indicating that under Staff's propo' most of its usage would be assessed the higher tiered rate. The Resort requested that as a 6-incu meter generally has the capacity of fifty 5/8 inch meters, its tier should be set at fifty times the tier for a 5/8 inch meter. The Resort claimed that as it provides the laterals to service individual units, the only additional cost to Applicant of its larger meter is additional pumping cost. The Resort proposed that its premium be limited to the additional pumping cost incurred.

Mr. Hanus disputed the Resort's claim that it should be assessed 57 ERUs. Mr. Hanus submitted reports he prepared and referred to as water and sewer cost of service studies, in which he concluded that the Resort should be assessed 145 ERUs, and bear 47 percent of any revenue requirement.

Applicant contended that the data underlying Mr. Hanus's cost of service studies was not accurate. MHC alleged that Mr. Hanus did not have the information available to prepare cost of service studies, and that his assumptions, including usage per unit assumptions, were not correct.

We conclude that for this rate case, we will adopt Staff's methodology of estimating Resort's usage based upon approximately 85 ERUs. The Resort is in transition from the RV Park. The nature of usage is changing, and is irregular during construction. The Resort may be able to accurately portray its needs during the next rate case. The parties also may consider submittal of cost of service studies, if doing so would be cost-effective for this size utility company.

We will tier the rates at 10,000 gallons, as recommended by Staff. The Resort's usage appears to have increased, and may result in the need for additional water supply, as well as cause difficulty with SVS's discharge limits. The rate tier should provide an incentive for the Resort to control usage, and anticipate and resolve possible usage problems. In addition, the Resort's current 500,000 gallons per month usage would not yield much more revenue to Applicant than 85 ERUs.

The following is the rate design for SVS that we will approve in this matter, which includes the 1-inch meter attributed to MHC, and to which MHC will add annualized revenues of $1,224:

<u>Sewer Services:</u>

5/8	Inch Meter	$ 49.00
1	Inch Meter	120.00

2	Inch Meter	470.00
6	Inch Meter	4,090.00

Service Charges:

Establishment	$ 20.00
Reconnect (delinquent account)	30.00
Deposit	*
Deposit Interest	*
Re-Establishment – Within 12 Months	**
NSF Check	15.00
Deferred payment (per month)	***
Late payment fee (per month)	***

* Per Commission Rule R14-2-603.B.7 and 603.B.3
** Per Commission Rule R14-2-603.D.1, Number of months off system times monthly minimum
*** Per Commission Rule R14-2-608.F.1

We establish the following rate design for SVW, which will yield an average monthly bill of $18.43 for residential customers, for a 56.19 percent rate increase. The rate design includes revenues attributed to MHC for a 1-inch meter at 19,780 gallons per month, and to which MHC will add annualized revenues of $401:

Water Services:

5/8	Inch Meter	$ 9.65
3/4	Inch Meter	15.00
1	Inch Meter	44.00
1 1/2	Inch Meter	60.00
2	Inch Meter	80.00
3	Inch Meter	160.00
4	Inch Meter	250.00
6	Inch Meter	500.00

Commodity Rate – per 1,000 Gallons

From 1 to 10,000 Gallons	$1.50
In excess of 10,000 Gallons	2.40

Service Line and Meter Installation Charges:

5/8	Inch Meter	$ 347.00
3/4	Inch Meter	385.00
1	Inch Meter	450.00
1 1/2	Inch Meter	665.00
2	Inch Meter	1,050.00
3	Inch Meter	1,430.00
4	Inch Meter	2,295.00
6	Inch Meter	4,400.00

Service Charges:

Establishment	$ 20.00
Establishment (after hours)	40.00
Reconnection (delinquent)	30.00
Meter Test (if correct)	30.00
Deposit	*
Deposit Interest	*
Re-Establishment (within 12 months)	**
NSF Check	15.00
Deferred payment (per month)	1.50%
Meter Re-Read (if correct)	15.00

Monthly Service Charge for Fire Sprinkler

4" or Smaller	***
6"	***
8"	***
10"	***
Larger than 10"	***

* Per Commission Rule R14-2-603.B.7 and 603.B.3
** Months off system times the minimum (R14-2-403.D)
*** 1.00% of monthly minimum for a comparable sized meter connection, but no less than $5.00 per month. The service charge for fire sprinklers is only applicable for service lines separate and distinct from the primary water service line.

IV. Capacity rights

The Resort contended that it has certain water and sewer capacity rights pursuant to the Collateral Agreement, but that MHC has not acknowledged its rights. The Resort alleged that while its costs should be based upon current usage according to its calculations, it should be assured capacity in SVS and SVW according to the terms of the Collateral Agreement.

MHC claimed that the Collateral Agreement was superceded by Commission jurisdiction, and that any obligation pursuant to the Collateral Agreement should be resolved as a contractual dispute rather than as an issue in the pending rate proceeding. MHC asserted that it planned to address the capacity issue with the Resort at the conclusion of this proceeding.

We conclude that capacity issues arising out of the Collateral Agreement do not control the Commission's jurisdiction, and do not pertain to the issues raised in this rate case proceeding. We will not determine at this time whether the matter may be within the jurisdiction of the Commission in another proceeding, such as a formal Complaint.[2]

[2] A determination that the Resort is assured a certain capacity from SVS and SVW may create an obligation for the Resort to pay for that capacity.

Having considered the entire record herein and being fully advised in the premises, the Commission finds, concludes, and orders that:

FINDINGS OF FACT

1. The Sedona Venture provides water and wastewater utility service to the public in an AMA approximately eight miles south of Sedona, Yavapai County, Arizona.

2. On October 20, 1997, The Sedona Venture and MHC filed an application for approval of the transfer of the Certificate and the sale of assets of The Sedona Venture, from The Sedona Venture to MHC.

3. On November 3, 1997, Applicants filed proof of notice of their application to The Sedona Venture's customers and all property owners in the area of the application.

4. No objections or claims regarding the transfer were received by the Commission, other than by intervenors, who were interested in delaying the Certificate transfer until MHC used proper accounting methodologies.

5. MHC purchased the assets of The Sedona Venture and began operations on or about August 29, 1997.

6. On June 18, 1999, MHC submitted applications for increases in rates and charges for SVS and SVW.

7. On July 19, 1999, Staff found the applications to be sufficient.

8. Applicant provided notice of the applications and of the hearing to each of its customers.

9. Messrs. Cire, Hanus, Johnson, Stubblefield, and Wenger, and the Resort were granted intervention.

10. A hearing was held commencing on November 30, 1999 regarding the Certificate transfer and rate applications.

11. Since Applicant has waived determination of the fair value of its property utilizing a reconstruction cost new evaluation, for SVS and SVW, the OCRBs of $457,102 and $136,972 are the respective FVRBs.

12. SVS's adjusted TY operating income is ($37,601), based upon operating revenue $145,382 and operating expenses of $182,983.

13. SVW's adjusted TY operating income is ($18,225), based upon operating revenues of $40,447 and operating expenses of $58,672.

14. In the circumstances of these proceedings, rates of return on FVRB for SVS and SVW of 2.44 and 8.20 percent, respectively is just and reasonable and should be adopted.

15. The required increase in gross annual revenues for SVS and SVW are $48,777, or 33.55 percent, and $29,454, or 72.82 percent, respectively.

16. Staff stated that Applicant has not provided documentation of the actual transfer of assets from The Sedona Venture to MHC.

17. According to the application, MHC will assume the refunding obligations for meter and service line installations.

18. Applicants asserted that there are no outstanding refunds for security deposits or main extension agreements.

19. Staff indicated that MHC utilizes a county right-of-way for a portion of its system, and that a transfer of the franchise is required.

20. The rates approved herein will provide sufficient funds to operate SVS and SVW.

21. Applicant has the expertise and certification to operate water and wastewater systems.

22. The Arizona Department of Environmental Quality ("ADEQ") reported that Applicant is in substantial compliance with state and federal rules for monitoring, reporting and discharge limits.

23. ADEQ indicated that Applicant is delivering water that does not exceed any maximum contaminant level and meets the Safe Drinking Water Act quality requirements.

24. Applicant is in compliance with the Commission's filing requirements and is current on its taxes.

25. Staff recommended that the transfer application be approved.

26. Staff recommended as follows:

(a) In addition to the collection of its regular rates and charges, Applicant shall collect from its customers its proportionate share of any Privilege, Sales or Use Tax where appropriate, as provided for in A.A.C. R14-2-608.D.3;

(b) SVS and SVW be ordered to maintain books and records in accordance with the NARUC Uniform System of Accounts for sewer and water utilities; and

(c) Any corporate allocations proposed by MHC be based upon actual rather than forecasted or budgeted costs and that the allocation methodology utilized be applied consistently at each level of the allocation process;

(d) The Commission order MHC to obtain a county franchise within 120 days from the effective date of the Decision[3];

(e) Applicant maintain general ledger records for SVS and SVW separate from non-utility operations and from one another; and

(f) The Commission condition approval of the application on MHC filing documents with the Commission verifying that the water and wastewater assets and any appurtenant equipment have been transferred to it[3].

27. Applicant accepted Staff's recommendations.

CONCLUSIONS OF LAW

1. Applicants are public service corporations within the meaning of Article XV of the Arizona Constitution and A.R.S. § 40-201 *et seq.*

2. The Commission has jurisdiction over Applicants and the subject matter of the application.

3. Notice of the applications was provided in the manner prescribed by law.

4. There is a continuing need for public utility service in The Sedona Venture's certificated area.

5. MHC is a fit and proper entity to receive the Certificate.

6. The transfer application should be approved.

7. The rates and charges authorized below are just and reasonable under the circumstances herein and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the application of The Sedona Venture and MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer

[3] At the hearing, the Applicant introduced exhibits satisfying 26(d) and (f).

Company for approval of the sale of assets and transfer of the Certificate of Convenience Necessity from The Sedona Venture to MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company is hereby granted.

IT IS FURTHER ORDERED that MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company is hereby directed to file on or before March 31, 2000, revised rate schedules setting forth the following sewer rates and charges:

Sewer Services:

5/8	Inch Meter	$ 49.00
¾	Inch Meter	75.00
1	Inch Meter	120.00
1 ½	Inch Meter	245.00
2	Inch Meter	470.00
3	Inch Meter	735.00
4	Inch Meter	1,225.00
6	Inch Meter	4,090.00

Service Charges:

Establishment	$ 20.00
Reconnect (delinquent account)	30.00
Deposit	*
Deposit Interest	*
Re-Establishment – Within 12 Months	**
NSF Check	15.00
Deferred payment (per month)	***
Late payment fee (per month)	***

* Per Commission Rule R14-2-603.B.7 and 603.B.3
** Per Commission Rule R14-2-603.D.1, Number of months off system times monthly minimum
*** Per Commission Rule R14-2-608.F.1

IT IS FURTHER ORDERED that MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company is hereby directed to file on or before March 31, 2000, revised rate schedules setting forth the following water rates and charges:

Water Services:

5/8	Inch Meter	$ 9.65
3/4	Inch Meter	15.00
1	Inch Meter	44.00
1 1/2	Inch Meter	60.00
2	Inch Meter	80.00
3	Inch Meter	160.00

4 Inch Meter	250.00
6 Inch Meter	500.00

Commodity Rate – per 1,000 Gallons

From 1 to 10,000 Gallons	$1.50
In excess of 10,000 Gallons	2.40

Service Line and Meter Installation Charges:

5/8 Inch Meter	$ 347.00
3/4 Inch Meter	385.00
1 Inch Meter	450.00
1 1/2 Inch Meter	665.00
2 Inch Meter	1,050.00
3 Inch Meter	1,430.00
4 Inch Meter	2,295.00
6 Inch Meter	4,400.00

Service Charges:

Establishment	$ 20.00
Establishment (after hours)	40.00
Reconnection (delinquent)	30.00
Meter Test (if correct)	30.00
Deposit	*
Deposit Interest	*
Re-Establishment (within 12 months)	**
NSF Check	15.00
Deferred payment (per month)	1.50%
Meter Re-Read (if correct)	15.00

Monthly Service Charge for Fire Sprinkler

4" or Smaller	***
6"	***
8"	***
10"	***
Larger than 10"	***

* Per Commission Rule R14-2-603.B.7 and 603.B.3

** Months off system times the minimum (R14-2-403.D)

*** 1.00% of monthly minimum for a comparable sized meter connection, but no less than $5.00 per month. The service charge for fire sprinklers is only applicable for service lines separate and distinct from the primary water service line.

IT IS FURTHER ORDERED that the above rates and charges shall be effective for all service provided on and after April 1, 2000.

IT IS FURTHER ORDERED that MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company shall notify its customers of the rates and charges authorized above and the effective date of same by means of an insert in its next reg monthly billing.

IT IS FURTHER ORDERED that MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company shall file a copy of its customer notification with the Director of the Commission's Utilities Division within sixty days of the date of this Order.

IT IS FURTHER ORDERED that MHC Operating Limited Partnership dba Sedona Venture Water Company and Sedona Venture Sewer Company shall comply with Staff recommendations contained in Findings of Fact No. 26 (a), (b), (c), and (e).

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN COMMISSIONER COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 3rd day of April, 2000.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT

BMB:bbs

SERVICE LIST FOR: SEDONA VENTURE – WATER AND SEWER DIVISIONS

DOCKET NO. W-02414A-97-0572, WS-03449A-97-0572, SW-02414A-99-0407 AND W-02414A-99-0407

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DECISION NO. 62425